

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

MARK ANTHONY TEAS,

Plaintiff,

v.

**CIVIL ACTION NO. 5:12-CV-134
(BAILEY)**

**DETECTIVE MCCALLEN,
PFC. W.M. WHITELATCH,
LT. MURRY, and
PTLM. SAYMEN,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. By Local Rule, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Seibert filed his R&R on November 5, 2012 [Doc. 21]. In that filing, the magistrate judge recommended that this Court deny the plaintiff's Motion [Doc. 14] for Emergency Injunctive Relief [Doc. 21 at 3].

Pursuant to 28 U.S.C. § 636 (b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). The docket sheet reflects that the R&R was originally sent to the plaintiff at the Northern Regional Jail on November 5, 2012 [Doc. 21-1]. However, it was returned as undeliverable [Doc. 41]. The plaintiff informed the Court of a new address on November 26, 2012 [Doc. 36]. The R&R was resent to the plaintiff at the updated address on November 26, 2012 [Doc. 21-2]. The docket reflects that service was accepted on December 3, 2012 [Doc. 46]. To date, no objections have been filed.¹

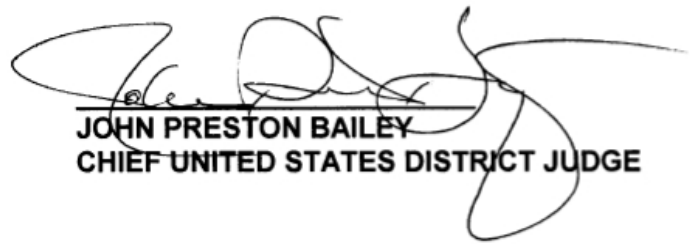
Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Doc. 21**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **DENIES** the plaintiff's Motion for Emergency Injunctive Relief [**Doc. 14**].

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

¹This Court notes that docket entry number 23 is titled as an objection to the magistrate judge's November 5, 2012, R&R; however, that document is one that the plaintiff submitted to prison officials for mailing on November 4, 2012, to appeal a different ruling by the magistrate judge.

DATED: December 27, 2012.



JOHN PRESTON BAILEY
CHIEF UNITED STATES DISTRICT JUDGE